

Approved



**ENHANCED MUNICIPAL SERVICES DISTRICT COMMISSION
CITY OF SCOTTSDALE
PINNACLE CONFERENCE ROOM
7575 EAST MAIN STREET
SCOTTSDALE, ARIZONA
JANUARY 19, 2005
MINUTES**

PRESENT: Scudder Gookin, Jr., Chairman
Paul Piazza, Vice-Chairman
Marilyn Atkinson, Commissioner
Anselm Bischoff, Commissioner
Bambi Johnson, Commissioner
Steven Scholz, Commissioner
Sally Shaffer, Commissioner

STAFF: Michelle Korf, Deputy Director
Donna Bronski, Deputy City Attorney

OTHERS

PRESENT: DeEtte Person, Olson Communications
Stan Yamamoto, Park & Company
Clark Johnson, 5th Avenue Merchants Association
Frank Maguire, 5th Avenue Merchants Association
Judy Pinch, Old Town Merchants Association
Michael Fernandez, Brown Stetson Merchants Association
Lois Fitch, Downtown Ambassador
Lauren Kapinos, Scottsdale Convention & Visitors Bureau
Ginny Taylor, Marshall Way Arts District

CALL TO ORDER

Chairman Gookin called the meeting of the Enhanced Municipal Services District Commission to order at 5:30 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

APPROVAL OF MINUTES

December 15, 2004, meeting

COMMISSIONER SHAFFER MADE A MOTION TO APPROVE THE DECEMBER 15, 2004, MEETING MINUTES AS PRESENTED. SECOND BY COMMISSIONER PIAZZA AND PASSED UNANIMOUSLY.

ELECTION OF CHAIRMAN AND VICE CHAIRMAN

Ms. Korf stated the By-laws require the Commission to elect a chairman and vice chairman each year at its January meeting.

Ms. Korf opened nominations for Chair of the EMSD Commission.

COMMISSIONER PIAZZA NOMINATED MR. GOOKIN AS CHAIRMAN OF THE ENHANCED MUNICIPAL SERVICES DISTRICT COMMISSION. SECOND BY COMMISSIONER SCHOLZ AND PASSED UNANIMOUSLY.

(Commissioner Atkinson arrived.)

Ms. Korf opened nominations for Vice-Chair of the EMSD Commission.

CHAIRMAN GOOKIN NOMINATED MR. PIAZZA AS VICE CHAIRMAN OF THE ENHANCED MUNICIPAL SERVICES DISTRICT COMMISSION. SECOND BY COMMISSIONER BISCHOFF AND PASSED UNANIMOUSLY.

COMMISSION ROLES

Ms. Bronski passed out an outline of her presentation, attached. She stated that she was asked to talk to the Commission about issues that have come up about the roles of the EMSD Commission. She reviewed the purpose of the EMSD Commission:

- To advise the City Council on how to expend funds collected from members of the district.
- For marketing and special events in the downtown.
- For the purpose of promoting the EMSD area as a destination and attract visitors to the area.

Ms. Bronski provided an overview of the Consultant Contract:

- Council contracted with Olson Communications, Inc. 7/7/2004
- Term of contract: annual, with 4 possible contract extensions as approved by Council.
- Purpose of Contract:
 - ❑ To develop marketing strategy for downtown, with input from EMSD
 - ❑ To promote downtown and specialty districts
 - ❑ To promote activities funded by Area Grants
 - ❑ To administer Area Grant Program
 - ❑ To make suggestions and report progress on marketing plan to EMSD
- Contract amount: \$500,000
- Contract Administrator: Michelle Korf
- Contract Administrator Duties and Responsibilities:
 - ❑ Oversee contract
 - ❑ Assist Consultant in assessing the City
 - ❑ Review and verify billings
 - ❑ Approve payments
 - ❑ Inspect Olson, insurance carrier and sub-contractor records where necessary to substantiate charges and claims.

CONCLUSION

- i. Commission's Role: work with the Consultant to help market downtown
- ii. Staff's role: administer the contract; support commission in its role helping consultant market downtown.

Commissioner Atkinson inquired how the Commission can advise the City Council on how to expend funds if they are not allowed to look at the entire budget: how it was prorated, the percentages versus the overall \$500,000. She stated she has been asking for that information and inquired if that would fall under the Freedom of Information Act. Ms. Bronski replied that request would fall under open meeting law because the Freedom of Information Act is Federal Law and under the open meeting law public can look at any records the City has but the City does not have to create records or materials. She reiterated that everyone has a right to look at records the City has but no one has the right to ask the City to create records not already in existence.

Commissioner Atkinson reiterated that if the Commission is to advise the City Council on how to expend funds then the Commissioners need to have the expenditures broken down; for example, if the Commission did an event and wanted to look at how much it cost in actual production costs, and actual printing costs. Ms. Bronski replied if that is part of the information Ms. Korf has the Commission can look at it. Commissioner Atkinson inquired how a person would go about acquiring that information. Ms. Bronski

reiterated if Ms. Korf has that information they can look at it but if that information does not exist they are not entitled to it. Commissioner Atkinson inquired if the Bylaws could be amended to include that. Ms. Bronski replied in the negative because that is a function of contract administration. She explained that request could be placed in a future contract. Commissioner Atkinson inquired if there is not one living human being that can ask for that information. Ms. Bronski replied there appears to be a disagreement regarding the differentiation of roles because administering the contract has been assigned to staff by the Council in this contract.

Commissioner Atkinson asked Commissioner Shaffer if the Tourism Development Commission was to ask for information or details like this would it be difficult to get. Commissioner Shaffer replied the TDC is not getting anything from the City; they have a proforma budget and if they provide funding to special events the events provide receipts because it is a matching fund program.

Commissioner Atkinson stated that it took three months to receive copies of the invoices. She inquired if there is a timeline when you ask for something and when you get something. Ms. Bronski replied it would be within a reasonable time but it is not specific.

(Commissioner Johnson arrived.)

Commissioner Johnson inquired when the Commission could request changes to the Consultant Contract. Ms. Bronski replied the annual contract would be renewed in July but cannot mandate changes. The contract can be renewed under the same terms or sent out to bid so the contract could be re-negotiated with the possibility of getting a new Consultant. She reviewed the terms of the contract.

Commissioner Johnson inquired how Council chose the staff for this Commission because she felt the advertising and PR department might have been a better fit. Ms. Bronski stated that in general the Council aligns a City department with that Commission so it would make sense that the Downtown Group is assigned to staff a downtown commission.

Commissioner Johnson inquired if a staff member has a question about a Commission member and goes to the City Attorney's Office wouldn't that Commission member be notified because the Commissioners all volunteer their time and are committed to doing the best for the downtown. She noted this happened to her. Ms. Bronski explained that all inquiries are confidential and it falls under the attorney client relationship. She added that the City Attorney's Office represents all levels of government so all such conversations are kept confidential.

Ms. Bronski reviewed the rules regarding conflict of interest. The general rule is that commissioners may not participate in discussions or decisions/votes that may benefit them or their close family members.

She reported the exception is commissioners may participate in discussion or decisions/votes that may personally benefit themselves or their close family members, so long as the benefit is the same as that which will occur to at least 10 similarly situated person (Class of 10 exception). Ms. Bronski responded to questions and comments from the Commission members' regarding the conflict of interest.

Ms. Bronski provided information on the expenditure of public funds. She explained under the Arizona Constitution, the City may not make a gift (or grant or subsidy) of public funds to any individual, association or corporation. What the city can do is purchase goods or services, following the city and stated procurement rules where applicable.

Commissioner Atkinson stated that the Commission is looking at a program for the Destination Managers gift certificates. She provided a brief description of how the program works. Ms. Bronski suggested the working group provide the Attorney's Office with a description of how this program would work and they will analyze it and see if the program needs to be tweaked to make it work within the law.

Commissioner Johnson inquired if there is a date by which the carryover funds must be used. Ms. Korf replied there is not a deadline. Chairman Gookin explained from a political point of view if the Commission has carry over money year after year people might begin to ask why they are being taxed so much if the money is not being spent. Commissioner Bischoff commented on the other hand the Commission should not be in a hurry to spend all the money because that promotes waste.

Chairman Gookin thanked Ms. Bronski for her presentation.

RESORT TROLLEY BUDGET ADJUSTMENT

Ms. Korf requested the Commission consider a motion to amend the budget for the resort trolley from \$2415 to \$2636 and to use contingency funds for the difference. She explained the EMSD Commission approved \$2415, which was an estimate of its share of the costs, at its November meeting. That number was based on 17 resort properties participating in the program. And between the time that the Commission approved the amount and when the number of resorts was finalized at 14, the amount changed. She reported the program is operating through mid-April. She commented that the downtown is getting three stops for the price of one.

COMMISSIONER SHAFFER MOVED TO AMEND THE BUDGET FOR THE RESORT TROLLEY FROM \$2415 TO \$2636 AND TO USE CONTINGENCY FUNDS FOR THE DIFFERENCE. SECOND BY COMMISSIONER SCHOLZ.

Commissioner Johnson stated that she was expecting to see Mary here tonight in reference to the Spring Training trolleys. Ms. Korf replied the Commission requested that item be placed on the February agenda.

Chairman Gookin called for the vote.

THE MOTION PASSED UNANIMOUSLY.

Commissioner Johnson inquired at what point next year would we know if the resort trolley was successful. Ms. Korf replied that she did not know but would find out.

AREA GRANT APPLICATIONS/STATUS

Ginny Taylor, Marshall Way Arts District, made a presentation explaining the Marshall Way Gallery Association would like to amend its area grant application for the Explore the Arts event to include participation in the Best of Scottsdale Event. The overall amount of the area grant does not change; Marshall Way Gallery Association is simply asking to use its area grant funds for both events.

COMMISSIONER ATKINSON MOVED TO AMEND THE MARSHALL WAY GALLERY ASSOCIATION'S AREA GRANT TO INCLUDE THE EXPLORE THE ARTS EVENT. SECOND BY COMMISSIONER SCHOLZ AND PASSED UNANIMOUSLY.

Michael Fernandez, Brown Stetson Merchants Association, made a presentation requesting area grant funds to purchase food as a promotional for the band members in the Parada del Sol. Michael negotiated with Jacqueline's to provide 400 bag lunches for \$1600 for children marching in the bands in the parade.

COMMISSIONER ATKINSON MOVED TO ACCEPT THE REQUEST FROM THE BROWN STETSON MERCHANTS ASSOCIATION FOR THE SUM OF \$1600 FOR THE FOOD AND BEVERAGE PROMOTION. SECOND BY COMMISSIONER PIAZZA.

Ms. Korf stated that staff has concerns about this application. The first concern is the applicability of this request in supporting the marketing plan that the Commission approved last August. The second concern is regarding the objective noted in the application regarding giving back to the community. Ms. Korf stated her concern that this objective may be in violation of the gift clause as described by Ms. Bronski regarding the expenditure of public funds. Mr. Fernandez stated he would be willing to strike that objective from the application.

COMMISSIONER ATKINSON AMENDED THE MOTION TO STRIKE THE OBJECTIVE "GIVING BACK TO THE COMMUNITY" FROM THE APPLICATION. SECOND BY COMMISSIONER PIAZZA.

Commissioner Shaffer inquired if the objective is to provide the kids food, would they bring their parents and family to the parade and into the downtown. Mr. Fernandez replied in the affirmative. Commissioner Atkinson stated we are trying to build the Parada into a major event.

Judy Pinch, Old Town Merchants Association, presented information on the importance of having the bands participate in the Parada. She discussed the efforts that have gone into getting the bands to participate.

Chairman Gookin called for the vote.

THE MOTION PASSED UNANIMOUSLY.

MARKETING WORKING GROUP UPDATE/RECOMMENDATIONS

Ms. Person passed out a copy of the EMSD Mid-Year Marketing Recap July 2004 – January 2005. Since their contract was finalized in mid-July, OCI's marketing and public relations efforts have been tireless and comprehensive, and have included advertising, event coordination and media outreach for the EMSD and its five specialty districts. She provided an update on the marketing groups activities.

Commissioner Atkinson reported that Marketing Working Group has done an enormous amount of work and come up with terrific ideas and have gone above and beyond and often are not given enough credit. She requested Ms. Person comment on the Working Group regarding their ideas being implemented and the professionalism and creativity. Ms. Person replied the working group is comprised of a diverse group and is aptly named because they do a lot of work. She stated we need the input for the working group for guidance and input as retailers. The working group puts in a lot of sweat equity and has a lot of good ideas. She added she felt it is a good partnership.

Chairman Gookin suggested that the ambassador who meets with the concierges let them know about the free trolley. Commissioner Shaffer stated there is a tourism article in the paper about the free trolleys.

Commissioner Johnson stated at the last meeting she requested Olson bring a Lion King playbill ad. Ms. Person stated that she did not have one today.

Commissioner Johnson inquired when they would know if an event like the Rock 'n Roll Marathon was successful and if there were surveys done. Ms. Person replied there was not a formal survey done but there has been informal feedback on the success of the marathon. Lauren Kapinos, Scottsdale Convention & Visitors Bureau, reported that the event organizers do an economic impact study every other year that outlines the return on the investment. Stan Yamamoto, Park & Company, stated sale tax would be a good indicator.

Commissioner Johnson inquired if we had come to a decision regarding the map directories. Mr. Yamamoto replied the Commission approved funding for the map and directories. The current supply should last through late February or March. Commissioner Johnson stated she would like the Commission to know how many brochures are left.

Commissioner Johnson stated the Commission needs to have a discussion on the Spring Training Trolley. Ms. Korf stated that issue would be on next month's agenda.

STATUS OF FY05 BUDGET

Ms. Korf provided an update on the FY05 budget spreadsheets. Ms. Korf responded to questions and comments from the Commission members' regarding the FY05 budget.

FUTURE AGENDA ITEMS/COMMISSIONER ANNOUNCEMENTS

Chairman Gookin thanked the Commission for their confidence in him by re-electing him as Chairman of the Commission.

Chairman Gookin reported that he met with Mary O'Connor with the city's Transportation Department and discussed the trolley stops in the downtown and the Spring Training Trolleys. He noted staff would provide a full report on these issues at the February meeting.

Ms. Korf stated the next meeting would be on February 16, 2005. She suggested that that meeting focus on planning for the FY06 marketing plan. The Commission requested the following future agenda items:

- Update on Resort Trolley
- Discussion of Spring Training trolley
- Marketing Plan for Fiscal 2006

Commissioner Piazza stated that he thought the Commission should write a letter to the Mayor and Council in regards to resolving the location of the Spring Training facility in Scottsdale for the Giants before the Giants goes away. Ms. Korf reported that would fall outside of the Commission's purview but that Commissioners may express their interest in this issue individually as citizens. Commissioner Atkinson suggested each of the districts send a letter.

STAFF ANNOUNCEMENTS

Ms. Korf announced that the City Council is considering a Tourism Development Commission recommendation for \$400,000 of bed tax funds for the CVB to produce a

new video and film footage to bring people out side of the Phoenix Metropolitan area into Scottsdale.

ITEMS FROM THE FLOOR

Lois Fitch provided an update on Downtown Ambassadors activities, including a “Meet the Ambassadors” opportunity at Jacqueline’s on February 3.

Frank Maguire, 5th Avenue Merchants Association, reported that 200 to 300 people came to the booth at the Rock ‘ Roll marathon and nine out of ten people indicated there were staying in Scottsdale. He further reported that there is no doubt the marathon benefited the downtown merchants.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Enhanced Municipal Services District Commission was adjourned at 7:50 p.m.